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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/576,048
Filing Date: August 07, 2006
Appellant(s): SHIMAMURA ET AL.

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Takenori Sekiya
Satoshi Nishizawa
Hideaki Suga
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Hisashi Kato
Yoshimi Saito
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 15, 2010 appealing from the Office action

mailed July 31, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings

which will directly affect or be directly affected by or have a bearing on the Board's decision in

the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in

the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

EP 1,176,840   De Vries   01-2002

2004/0170263   Michael et al.   09-2004

6,658,095   Yoakum et al.   12-2003

2004/0162882   Mora   08-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1.   Claims 2-7, 9-14, 16, 18, 19, 21, 23, 24, 27-30, 32-50 are rejected under 35 U.S.C. 103(a)

as being unpatentable over De Vries and further in view of U.S. Patent Application Publication

No. 2004/0170263 A1 to Michael et al. (hereinafter "Michael")

2.   As to Claims 9 and 23, De Vries discloses a server apparatus and method (referenced

hereinafter as the apparatus) in a presence display system comprising the server apparatus and a

client apparatus for each user, constituted to allow the client apparatus to display the states of

other users, comprising:

means for holding information indicating the states of each user and location information

that are transmitted by each of the client apparatuses (De Vries; Figure 1, and paragraphs 6-8 and

24-31, discloses a server that holds people and place specific information about a user that is

transmitted by a client apparatus);

means for storing a buddy list that registers other users whose states the user wishes to

watch, for each user (De Vries; Figure 1, and paragraphs 6-8 and 24-31, discloses the server

storing a buddy list for each user);

means for transmitting, to each user, information indicating the states of other users

registered in the buddy list and information relating to the distance between the user and the

other users (De Vries; Figure 1, and paragraphs 6-8 and 24-31, discloses the server transmitting

to each user state, location, and proximity information regarding other users registered in the

buddy list); and

De Vries does not explicitly disclose, however Michael discloses means for creating a list

of other users that are watching the state of the user and allowing users to specify which

watchers are authorized to receive their presence information (Michael; paragraphs 19 and 21,

discloses creating and providing a list of watchers to the user for authorization).

Although Michael does not explicitly state that a watcher list is transmitted to the user in

accordance with a request from the user, the fact that the server is creating, maintaining, and

providing a buddy list to a user upon request, strongly points to the capability of the server,

which already creates and maintains a watcher list, to provide that watcher list to users upon

request. Furthermore, one of ordinary skill in the art would have strong motivation to make this

modification in view of the fact that Michael discloses that users can specify which particular

watchers are authorized to receive their presence information. For a user to specify particular

watchers, it would be strongly beneficial, if not necessary, for the user to be provided with a list

of watchers.

3.   As to Claims 2 and 27, De Vries and Michael disclose each and every limitation of

Claims 9 and 23. De Vries further discloses wherein the location information includes latitude

and longitude information (De Vries; Figure 1, and paragraphs 13, discloses the user place

information includes geographical coordinates), and the apparatus further comprises:

     means for calculating the distance between the user and the other users registered in the

buddy list on the basis of the latitude and longitude information transmitted by each user (De

Vries; paragraphs 34 and 35, discloses the server calculates the distance between the user and

other users registered in the buddy list), and

     determining the proximity of the other users by comparing the calculated distance with a

predetermined threshold value, and wherein the proximity thus determined is transmitted to the

client apparatus as information relating to the distance between the user and the other users (De

Vries; paragraphs 34, 35, and 37, discloses determining the proximity of the other users based on

a predetermined threshold and transmitting the proximity information to the user).

4.   As to Claims 3 and 28, De Vries and Michael disclose each and every limitation of

Claims 2 and 27. De Vries further discloses wherein the threshold value can be optionally set

by each user (De Vries; paragraphs 34 and 35, discloses the threshold value may be set by the

user).

5.   As to Claims 4 and 34, De Vries and Michael disclose each and every limitation of

Claims 2 and 27. De Vries further discloses wherein the location information further includes

address information, and address information is transmitted to the client apparatus in addition to

the proximity (De Vries; paragraph 24, discloses location information transmitted also includes

whether the place is the user's home or place of work).

6.   As to Claims 5 and 33, De Vries and Michael disclose each and every limitation of

Claims 9 and 27. De Vries further discloses wherein

means for storing information indicating whether a user gives consent for information ,

relating to the distance thereof to be transmitted to the other users is provided for each user, and

the information relating to the distance is not transmitted to the client apparatus of users that

have not consented to the transmission of information relating to distance (De Vries; paragraph

29, discloses the user consenting to place specific information being provided to other users in

order for the server to provide the information).

7.   As to Claims 6 and 35, De Vries and Michael disclose each and every limitation of

Claims 4 and 34. De Vries further discloses wherein

means for storing information indicating whether a user gives consent for address

information thereon to be transmitted to other users is provided for each user, and the address

information is not transmitted to the client apparatus of users that have not consented to the

transmission of address information (De Vries; paragraph 29, discloses the user consenting to

place specific information being provided to other users in order for the server to provide the

information).

8.   As to Claims 7 and 24, De Vries and Michael disclose each and every limitation of

Claims 9 and 23. De Vries further discloses wherein

the buddy list is constituted by a.plurality of community sets in which other users whose

state the user wishes to watch are registered in groups (De Vries; paragraph 29, discloses the

buddy list is constituted by a plurality of community sets); and

information indicating the states of the other users registered in a community set

designated by the user and information relating to the distances between the user and the other

users are transmitted to the client apparatus (De Vries; Figure 1, and paragraphs 6-8 and 24-31,

discloses the server transmitting to each user state, location, and proximity information regarding

other users registered in the buddy list).

9.   As to Claims 13 and 29, De Vries and Michael disclose each and every limitation of

Claims 9 and 27. De Vries further discloses:

means for receiving location information from each of the client apparatuses (De Vries;

Figure 1, and paragraphs 6-8 and 24-31, discloses a server that holds location information about

a user that is received from each client apparatus).

10.   As to Claims 14 and 30, De Vries and Michael disclose each and every limitation of

Claims 9 and 27. De Vries further discloses:

means for transmitting location information to each of the client apparatuses (De Vries;

Figure 1, and paragraphs 6-8 and 24-31, location information to each client apparatus).

11.   As to Claims 16 and 32, De Vries and Michael disclose each and every limitation of

Claims 9 and 27. De Vries further discloses:

means for determining location information using a base station id associated with each

of the client apparatuses (De Vries; paragraph 21; wireless tower).

12.   As to Claim 36, De Vries and Michael disclose each and every limitation of Claim 9. De

Vries further discloses wherein information relating to distance between the user and other users

includes location information of the other users that is transmitted to the user and used by the

user to calculate the distance (De Vries; paragraph 62).

13.   As to Claim 38, De Vries and Michael disclose each and every limitation of Claim 23. De

Vries further discloses:

        transmitting, to each user, location information for at least one other user in the buddy list

(De Vries; Figure 1, and paragraphs 6-8 and 24-31, discloses the server transmitting to each user

state, location, and proximity information regarding other users registered in the buddy list).

14.   As to Claim 39, De Vries and Michael disclose each and every limitation of Claim 38. De

Vries further discloses:

        each of the users determining proximity of other users in the buddy list by calculating a

distance between the user and the at least one other user using the location information (De

Vries; paragraph 62).

15.   As to Claim 40, De Vries and Michael disclose each and every limitation of Claim 39. De

Vries further discloses:

        comparing the distance with a predetermined threshold value (De Vries; paragraphs 34,

35, and 37).

16.   As to Claim 41, De Vries and Michael disclose each and every limitation of Claim 38. De

Vries further discloses wherein the location information includes latitude and longitude

information (De Vries; Figure 1, and paragraphs 13).

17.   As to Claim 42, De Vries and Michael disclose each and every limitation of Claim 38. De

Vries further discloses wherein transmitting location information and transmitting information

indicating the states of other users are performed independently (De Vries; Figure 1, and

paragraphs 6-8 and 24-31).

18.   As to Claim 43, De Vries and Michael disclose each and every limitation of Claim 38. De

Vries further discloses wherein the location information is the proximity of the other users to the

user (De Vries; Figure 1, and paragraphs 6-8 and 24-31).

19.   As to Claim 10, De Vries discloses a client apparatus in a presence display system

comprising a server apparatus and a client apparatus for each user, constituted to allow the client

apparatus to display the states of other users, comprising:

means for transmitting information indicating the state of the user and location

information to the server apparatus (De Vries; paragraph 6, discloses the user transmitting

information indicating the state and location of the user);

means for receiving information indicating the states of other users and information

relating to the distance between the user and the other users from the server apparatus (De Vries;

paragraphs 6-8 and 24-31, discloses the user receiving information from the server indicating the

state, location, and proximity of other users);

means for displaying the states of the other users in a display form that corresponds with

the distance between the other users and the user on the basis of the information indicating the

states of the other users and information relating to the distance between the user and the other

users thus received (De Vries; paragraph 6, discloses graphically displaying the state, location,

and proximity information determined by the server on the client device); and

De Vries does not explicitly disclose, however Michael discloses means for creating a list

of other users that are watching the state of the user and allowing users to specify which

watchers are authorized to receive their presence information (Michael; paragraphs 19 and 21,

discloses creating and providing a list of watchers to the user for authorization).

Although Michael does not explicitly state that a watcher list is transmitted to the user in

accordance with a request from the user, the fact that the server is creating, maintaining, and

providing a buddy list to a user upon request, strongly points to the capability of the server,

which already creates and maintains a watcher list, to provide that watcher list to users upon

request. Furthermore, one of ordinary skill in the art would have strong motivation to make this

modification in view of the fact that Michael discloses that users can specify which particular

watchers are authorized to receive their presence information. For a user to specify particular

watchers, it would be strongly beneficial, if not necessary, for the user to be provided with a list

of watchers.

20.   As to Claim 11, De Vries and Michael disclose each and every limitation of Claim 10.

De Vries further discloses wherein

        the information relating to the distance between the user and the other users is the

proximity that is determined by comparing the distance between the user and the other users with

a predetermined threshold value (De Vries; paragraphs 34 and 35, discloses determining the

proximity between the user and other users using a predetermined threshold value); and

        the displaying means displays an image corresponding with the information indicating

the states of the other users received from the server apparatus with a size that corresponds with

the proximity (De Vries; paragraphs 6, 34, and 35, discloses graphically displaying the state,

location, and proximity information determined by the server on the client device).

21.   As to Claim 12, De Vries and Michael disclose each and every limitation of Claim 10.

De Vries further discloses wherein

        the information relating to the distance between the user and the other users further

includes address information, and the displaying means is capable of displaying the addresses of

the other users (De Vries; paragraphs 6 and 24, discloses graphically displaying the state,

location, and proximity information, including address information, determined by the server on

the client device).

22.   As to Claim 18, De Vries and Michael disclose each and every limitation of Claim 10.

De Vries further discloses:

       means for transmitting location information to the server (De Vries; Figure 1, and

paragraphs 6-8 and 24-31, discloses a server that holds location information about a user that is

transmitted by each client apparatus).

23.   As to Claim 19, De Vries and Michael disclose each and every limitation of Claim 10.

De Vries further discloses:

       means for receiving location information from the server (De Vries; Figure 1, and

paragraphs 6-8 and 24-31, location information received by client apparatus).

24.   As to Claim 21, De Vries and Michael disclose each and every limitation of Claim 10.

De Vries further discloses:

       means for determining location information using a base station id associated with the

client apparatus (De Vries; paragraph 21; wireless tower).

25.   As to Claim 37, De Vries and Michael disclose each and every limitation of Claim 10.

De Vries further discloses wherein information relating to distance between the user and other

users includes location information of the other users that is transmitted to the client apparatus

and used by the client apparatus to calculate the distance (De Vries; paragraph 62).

26.   As to Claim 44, De Vries discloses a server apparatus, comprising:

a user data section containing information indicating the states of each user and containing a buddy list that registers, for each user, other users whose states the user wishes to watch (De Vries; Figure 1, and paragraphs 6-8 and 24-31); and

a web server, coupled to the user data section to transmit, to each user, information indicating the states of the other users registered in the buddy list (De Vries; Figure 1, and paragraphs 6-8 and 24-31),

De Vries does not explicitly disclose, however Michael discloses creating a list of other users that are watching the state of the user and allowing users to specify which watchers are authorized to receive their presence information (Michael; paragraphs 19 and 21, discloses creating and providing a list of watchers to the user for authorization).

Although Michael does not explicitly state that a watcher list is transmitted to the user in accordance with a request from the user, the fact that the server is creating, maintaining, and providing a buddy list to a user upon request, strongly points to the capability of the server, which already creates and maintains a watcher list, to provide that watcher list to users upon request. Furthermore, one of ordinary skill in the art would have strong motivation to make this modification in view of the fact that Michael discloses that users can specify which particular watchers are authorized to receive their presence information. For a user to specify particular watchers, it would be strongly beneficial, if not necessary, for the user to be provided with a list of watchers.

27.   As to Claim 45, De Vries and Michael disclose each and every limitation of Claim 44.

De Vries further discloses wherein location information is provided to at least one user for at

least one of the other users that is in the buddy list (De Vries; Figure 1, and paragraphs 6-8 and

24-31).

28.   As to Claim 46, De Vries and Michael disclose each and every limitation of Claim 45.

De Vries further discloses wherein each of the users determines proximity of other users in the

buddy list by calculating a distance between the user and the at least one other user using the

location information (De Vries; paragraph 62).

29.   As to Claim 47, De Vries and Michael disclose each and every limitation of Claim 46.

De Vries further discloses wherein the distance is compared with a predetermined threshold

value (De Vries; paragraphs 34, 35, and 37).

30.   As to Claim 48, De Vries and Michael disclose each and every limitation of Claim 45.

De Vries further discloses wherein the location information includes latitude and longitude

information (De Vries; Figure 1, and paragraphs 13).

31.   As to Claim 49, De Vries and Michael disclose each and every limitation of Claim 45.

De Vries further discloses wherein providing location information and providing information

indicating the states of other users are performed independently (De Vries; Figure 1, and

paragraphs 6-8 and 24-31).

32.   As to Claim 50, De Vries and Michael disclose each and every limitation of Claim 45.

De Vries further discloses wherein the location information is the proximity of the other users to

the user (De Vries; Figure 1, and paragraphs 6-8 and 24-31).

33.   Claims 8, 17, 22, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable

over De Vries and Michael as applied to Claims 7, 10, and 24 above, and further in view of U.S.

Patent No. 6,658,095 to Yoakum et al. (hereinafter "Yoakum").

34.   As to Claims 8 and 25, De Vries and Michael disclose each and every limitation of

Claims 7 and 24. De Vries and Michael do not explicitly disclose, however Yoakum discloses

wherein

        a relative presence setting table, which associates and stores information indicating the

state of the user and information indicating states transmitted to the other user in accordance with

the community sets to which the other users that have registered the user in a buddy list belong,

is provided for each user; and when information indicating the states of each user is transmitted

to other users that are watching the state of the user, information indicating states corresponding

with the community sets of the other users is transmitted by referencing the relative presence

setting table (Yoakum; column 2 lines 31-54 and column 7 lines 1-35, discloses a presence

system that transmits different presence information to different users or groups of users based

on the same state information using rules management logic which is referenced to evaluate the

state information and provide the different presence information).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify a presence system, as disclosed by De Vries, to include a relative presence

setting table, as disclosed by Yoakum, in order to provide different presence information to

different users (Yoakum; column 2 lines 22-29).

35.   As to Claims 17 and 26, De Vries, Michael, and Yoakum disclose each and every

limitation of Claims 8 and 25. Yoakum further discloses wherein the relative presence setting

table causes different relative presence information to be displayed for different community sets

of the other users (Yoakum; column 2 lines 31-54 and column 7 lines 1-35; different presence

information displayed for different groups).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify a presence system, as disclosed by De Vries, to include a relative presence

setting table, as disclosed by Yoakum, in order to provide different presence information to

different users (Yoakum; column 2 lines 22-29).

36.   As to Claim 22, De Vries and Michael disclose each and every limitation of Claim 10.

De Vries and Michael do not explicitly disclose, however Yoakum discloses wherein

a relative presence setting table, which associates and stores information indicating the

state of each user and information indicating states transmitted to the other user in accordance

with the community sets to which the other users that have registered the user in a buddy list

belong, is provided for each user; and when information indicating the states of each user is

transmitted to other users that are watching the state of the user, information indicating states

corresponding with the community sets of the other users is transmitted by referencing the

relative presence setting table, wherein the relative presence setting table causes different relative

presence information to be displayed for different community sets of the other users (Yoakum;

column 2 lines 31-54 and column 7 lines 1-35, discloses a presence system that transmits

different presence information to different users or groups of users based on the same state

information using rules management logic which is referenced to evaluate the state information

and provide the different presence information; different presence information displayed for

different groups).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify a presence system, as disclosed by De Vries, to include a relative presence

setting table, as disclosed by Yoakum, in order to provide different presence information to

different users (Yoakum; column 2 lines 22-29).

37.	Claims 15, 20, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over De

Vries and Michael as applied to Claims 9, 10, and 27 above, and further in view of U.S. Patent

Application Publication No. 2004/0162882 to Mora.

38.	As to Claims 15 and 31, De Vries and Michael disclose each and every limitation of

Claims 9 and 27. De Vries and Michael do not explicitly disclose, however Mora discloses:

means for transmitting a state of movement of each user to each of the client apparatuses
(Mora; paragraphs 18 and 22; state of motion).

It would have been obvious to one of ordinary skill in the art at the time the invention
was made to modify presence information, as disclosed by De Vries, to include state of
movement, as disclosed by Mora, in order to provide real-time presence information.

39.   As to Claim 20, De Vries and Michael disclose each and every limitation of Claim 10.
De Vries and Michael do not explicitly disclose, however Mora discloses:

means for receiving a state of movement of each user from the server (Mora; paragraphs
18 and 22; state of motion).

It would have been obvious to one of ordinary skill in the art at the time the invention
was made to modify presence information, as disclosed by De Vries, to include state of
movement, as disclosed by Mora, in order to provide real-time presence information.

(10) Response to Argument

The examiner summarizes the various points raised by the appellant and addresses replies
individually.

As per appellant's argument that:

(a) Regarding the rejection of claims 2-7, 9-14, 16, 18, 19, 21, 23, 24, 27-30, 32-50 under
35 U.S.C. 103(a) as being unpatentable over De Vries in view of Michael, appellant argues that
Michael does not disclose that a buddy list is transmitted from the presence server to the user
upon request.

In response to argument (a), examiner asserts that while Michael discloses that the user maintains its buddy list, it is clear from Michael's disclosure, paragraph [0002], and traditional presence systems, that this is made possible by a presence server providing the buddy list and corresponding services to the user upon request.

(b) Regarding the rejection of claims 2-7, 9-14, 16, 18, 19, 21, 23, 24, 27-30, 32-50 under 35 U.S.C. 103(a) as being unpatentable over De Vries in view of Michael, appellant argues that while a watcher list is maintained on the presence server and the user can specify which watchers are authorized to receive their presence information, this disclosure does not suggest that a user may be provided a watcher list upon request.

In response to argument (b), examiner asserts that the fact that the presence server maintains a watcher list and that users can specify which watchers are authorized to receive their presence information, would make it obvious to one of ordinary skill in the art at the time the invention was made, in view of Michael's disclosure, to modify Michael such that the user is provided a watcher list upon request in order to facilitate specifying which watchers are authorized to receive their presence information.

(c) Regarding the rejection of claims 2-7, 9-14, 16, 18, 19, 21, 23, 24, 27-30, 32-50 under 35 U.S.C. 103(a) as being unpatentable over De Vries in view of Michael, appellant argues that a modification that would strongly benefit Michael's disclosure is inappropriate justification to reject appellant's claims and that examiner is using hindsight reasoning and only features and justification identified and recited by appellant for improving Michael's system.

In response to argument (c), examiner asserts, with due respect, that appellant is

oversimplifying examiner's position while crediting as notable innovation the idea of a server

providing data (a watcher's list) already maintained at the server to a user upon request. As

stated in examiner's rejection provided herein, although Michael does not explicitly state that a

watcher list is transmitted to the user in accordance with a request from the user, the fact that the

server is creating, maintaining, and providing a buddy list to a user upon request, strongly points

to the capability of the server, which already creates and maintains a watcher list, to provide that

watcher list to users upon request. Furthermore, one of ordinary skill in the art would have

strong motivation to make this modification in view of the fact that Michael discloses that users

can specify which particular watchers are authorized to receive their presence information. For a

user to specify particular watchers, it would be strongly beneficial, if not necessary, for the user

to be provided with a list of watchers. Hence these features and capabilities are already present

in the prior art and require no hindsight reasoning for improving Michael's system.

(d) Regarding the rejection of claims 8, 17, 22, 25, and 26 under 35 U.S.C. 103(a) as

being unpatentable over De Vries and Michael as applied to Claims 7, 10, and 24 above, and

further in view of Yoakum, appellant argues that Yoakum does not overcome the alleged

deficiencies of De Vries and Michael with respect to appellant's independent claims.

In response to argument (d), examiner supplies the same rationale discussed above.

(e) Regarding the rejection of claims 15, 20, and 31 under 35 U.S.C. 103(a) as being

unpatentable over De Vries and Michael as applied to Claims 9, 10, and 27 above, and further in

view of Mora, appellant argues that Mora does not overcome the alleged deficiencies of De Vries

and Michael with respect to appellant's independent claims.

In response to argument (e), examiner supplies the same rationale discussed above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Vivek Krishnan/

Examiner, Art Unit 2445

Conferees:

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2445

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Primary Examiner, Art Unit 2445